REMARKS

Claims 1-21 are pending in the application, are rejected, and are at issue.

Applicant traverses the rejections of Claims 1-4 and 6 as anticipated by Kelch et al., U.S. Patent No. 5, 695,870.

Independent Claim 1 specifies an unbonded capping system for strength testing of concrete masonry units comprising a test apparatus for strength testing of concrete masonry units. A rigid, rectangular foam board is of a size to be received on a face of a concrete masonry unit. A plastic sheet is laminated to the rigid foam board and is engagable by the test apparatus, in use, with the rigid foam board engaging the face of the concrete masonry unit to provide even load distribution during testing.

Original Claim 1 inferentially recited the limitation to the test apparatus. In the action, the Examiner gave no weight to these limitations. Applicant has amended Claim 1 to positively recite the test apparatus in the body of Claim 1.

Kelch, et al does not disclose or suggest a test apparatus. It discloses an insulation board of enhanced strength. Claim 1 and its dependant Claims 2-4 and 6 are not anticipated. The rejection should be withdrawn.

Applicant traverses the rejection of Claim 7-10 and 12 as anticipated by Kelch, et al., U.S. Patent No. 5,695,870.

Claim 7 specifies in a testing system for compression testing of concrete mason units including first and second platens, the improvement comprising a pair of compression paths each comprising a rigid, rectangular foam board of a size to received on one face of a concrete masonry unit. A plastic sheet is laminated to the rigid foam board and is engagable by one of the test platens, in use, with the rigid foam board engaging the face of the concrete masonry unit to provide even load distribution during testing.

Claim 7 is amended to define an improvement in a testing system. As such, the

limitations to the test platens should not be ignored. Kelch, et al. does not disclose or suggest a testing system including platens. Claim 7 and its dependant Claims 8-10 and 12 are not anticipated. The rejection should be withdrawn.

Applicant traverses the rejection of Claims 1-6 as obvious over Hadley, et al., U.S. Patent No. 3,545,263 in view of Kelch, et al.

Claim 1 is discussed above. The combination of the references is improper.

Hadley, et al. is directed to a compression testing machine including platens for testing concrete blocks. Hadley, et al. does not disclose or suggest any material disposed between the platens and the concrete block. Kelch, et al. discloses a foam board used for insulation. The foam board is not described as being used in any type of compression testing apparatus, let alone a testing apparatus for concrete blocks. As noted in the action, Kelch, et al. discusses that thin foam boards are susceptible to physical damage. A facing material is used to overcome this problem. A compression testing machine, such as in Hadley, et al., is specifically directed to causing physical damage. Thus, it is not apparent why one would want to use any material, let alone a material susceptible to damage, between the platen and the concrete block. The action does not provide any legitimate motivation for making the combination, absent hindsight in view of the present application. The action notes that the motivation is that the foam board can "effectively prevent the movement of concrete specimen under compressive loading". It is not apparent that there is any such problem or that the combination would provide this function. The combination is improper. Claims 1-6 are believed allowable and withdrawal of the rejection is requested.

Applicants traverse the rejection of Claims 7-12 as obvious over Hadley, et al. in view of Nelson, U.S. Patent No. 4,740,025 and further in view of Kelch, et al.

Claim 7 is set forth above. As discussed above, Hadley, et al. and Kelch, et al. are not properly combinable. Nelson is directed to gripper devices for gripping laboratory glassware. It is cited for the use of a pair of pads. It is not apparent why one skilled in

the art of a compression testing apparatus would consider the teachings of a gripper device for laboratory glassware as being relevant. Thus, the combination of Hadley, et al with either Nelson or Kelch, et al. is improper and the rejection ought be withdrawn.

Applicant traverses the rejection of Claims 13-18 as obvious over Hadley, et al. in view of Nelson and further in view of Kelch, et al.

Independent Claim 13 specifies an improvement in a capping system for compression testing of concrete masonry units including first and second platens. The improvement comprises a pair of laminated compression pads, each comprising a rigid, rectangular foam layer of a size to be received on one face of a concrete masonry unit. A plastic sheet layer is laminated to the rigid foam layer and in engagable by one of the test platens, in use, with the rigid foam layer engaging the face of the concrete masonry unit to provide even load distribution during testing.

Claim 13 is believed allowable for the same reasons discussed above relative to Claims 1-12. Particularly, the combination of Hadley, et al. with Nelson and/or Kelch, et al. is improper. Therefore, Claims 13-18 are believed allowable and the withdrawal of the rejection is requested.

Applicants traverse the rejection of Claims 19-21 as obvious over Hadley, et al. in view of Nelson and further in view of Kelch, et al.

Independent Claim 19 specifies an unbonded capping system for strength testing of concrete masonry units comprising a pair of laminated compression pads. Each laminated compression pad comprises a high density expanded polystyrene (EPS) foam layer of size to be received on a face of a concrete masonry unit. A plastic sheet layer is adhered to the EPS foam layer and is engabable by a test apparatus, in use, with the EPS foam layer engaging the face of the concrete masonry unit to provide even load distribution during testing.

Claims 19-21 are believed allowable for the same reasons discussed above. Particularly, the combination of Hadley, et al. with Nelson and/or Kelch, et al. is

improper. One skilled in the art would not be motivated to make the combination.

For the above reasons, Claims 19-21 are believed allowable and withdrawal of the rejection is requested.

Summarizing, the invention is directed to strength testing of concrete masonry units using compression pads comprising a foam layer and plastic sheet layer disposed between the concrete masonry unit and the test apparatus and/or platens. The only cited patent relevant to compression testing is Hadley, et al. which places platens directly in contact with a concrete block. It does not disclose or suggest any intermediary structure. Kelch, et al. is directed to an insulation board. Insulation boards per se have no apparent utility in compression testing machines. Nelson is directed to a gripper device for laboratory glassware. This is not analogous to a compression testing machine for a concrete block. The combinations are improper.

Reconsideration of the application and allowance and passage to issue are requested.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this Amendment is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 31, 2005.

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